

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77442417
LAW OFFICE ASSIGNED	LAW OFFICE 108
MARK SECTION (current)	
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	LEADER GIRLZ
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
MARK SECTION (proposed)	
MARK	<u>LEADERGIRLZ</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	LEADERGIRLZ
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
<p>The USPTO Examining Attorney has refused registration on the ground that Applicant's LEADER GIRLZ mark is likely to be confused with the registered L LEADER (AND DESIGN). Applicant respectfully requests reconsideration of the refusal on the ground that the marks are not likely to be confused, and that the term GIRLZ is not merely descriptive of the goods.</p> <p>"In assessing likelihood of confusion, the mere fact that two marks may share words in common is not determinative." <i>Clairol, Inc. v. Cosmair, Inc.</i>, 592 F. Supp. 811, 815 (S.D.N.Y. 1984). <i>See also In re Software Design, Inc.</i>, 220 U.S.P.Q. 662 (T.T.A.B. 1983). Even where the</p>	

marks themselves are identical, other factors, including the similarity of the services associated with the marks and the channels of trade, must also be considered in determining whether there is a likelihood that marks will be confused. *DuPont*, 177 USPQ at 567. "Trademark law is not inflexible, and there is no hard and fast rule that likelihood of confusion must automatically be found to exist if there is a similarity in any one of the three elements [sound, appearance, or meaning]."

The USPTO has registered several marks that contain the term LEADER for the same or related goods. *See, e.g., LEADER-1*, U.S. Reg. No. 2681846; *DREAM LEADER*, U.S. Reg. No. 3471072. Copies of these TESS records are submitted herewith. These registrations demonstrate the willingness of the USPTO to register marks that contain term LEADER combined with another term despite the existence of the registered mark.

Finally, Applicant has submitted a new drawing amending the mark to the unitary term LEADERGIRLZ. Accordingly, the mark is not likely to be confused with L LEADER and the term "girls" is not subject to being disclaimer.

For these reasons, Applicant respectfully requests reconsideration of the application and approval for publication of the mark.

F

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	http://tgate/PDF/RFR/2009/08/11/20090811174959005056-77442417-001_001/evi_209120230194-172800688_.leadergirlz.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT7\IMAGEOUT7\774\424\77442417\xml1\RFR0003.JPG
	\\TICRS\EXPORT7\IMAGEOUT7\774\424\77442417\xml1\RFR0004.JPG
DESCRIPTION OF EVIDENCE FILE	TESS records
SIGNATURE SECTION	
RESPONSE SIGNATURE	/gregory bernabeo/
SIGNATORY'S NAME	Gregory Bernabeo

SIGNATORY'S POSITION	Attorney of record, Pennsylvania bar member
DATE SIGNED	08/11/2009
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Aug 11 17:49:59 EDT 2009
TEAS STAMP	USPTO/RFR-209.120.230.194 -20090811174959005056-774 42417-4301bd822132ac16abf 4a591878d551d54-N/A-N/A-2 0090811172800688288

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OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. 77442417 has been amended as follows:

MARK

Applicant proposes to amend the mark as follows:

Current: LEADER GIRLZ (standard characters)

Proposed (USPTO generated image): LEADERGIRLZ (Standard Characters, see mark)

The mark consists of standard characters, without claim to any particular font, style, size, or color.

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The USPTO Examining Attorney has refused registration on the ground that Applicant's LEADER GIRLZ mark is likely to be confused with the registered L LEADER (AND DESIGN). Applicant respectfully requests reconsideration of the refusal on the ground that the marks are not likely to be confused, and that the term GIRLZ is not merely descriptive of the goods.

"In assessing likelihood of confusion, the mere fact that two marks may share words in common is not determinative." *Clairol, Inc. v. Cosmair, Inc.*, 592 F. Supp. 811, 815 (S.D.N.Y. 1984). *See also*

In re Software Design, Inc., 220 U.S.P.Q. 662 (T.T.A.B. 1983). Even where the marks themselves are identical, other factors, including the similarity of the services associated with the marks and the channels of trade, must also be considered in determining whether there is a likelihood that marks will be confused. *DuPont*, 177 USPQ at 567. "Trademark law is not inflexible, and there is no hard and fast rule that likelihood of confusion must automatically be found to exist if there is a similarity in any one of the three elements [sound, appearance, or meaning]." .

The USPTO has registered several marks that contain the term LEADER for the same or related goods. *See, e.g., LEADER-1*, U.S. Reg. No. 2681846; *DREAM LEADER*, U.S. Reg. No. 3471072.

Copies of these TESS records are submitted herewith. These registrations demonstrate the willingness of the USPTO to register marks that contain term LEADER combined with another term despite the existence of the registered mark.

Finally, Applicant has submitted a new drawing amending the mark to the unitary term LEADERGIRLZ. Accordingly, the mark is not likely to be confused with L LEADER and the term "girls" is not subject to being disclaimer.

For these reasons, Applicant respectfully requests reconsideration of the application and approval for publication of the mark.

F

EVIDENCE

Evidence in the nature of TESS records has been attached.

Original PDF file:

http://tgate/PDF/RFR/2009/08/11/20090811174959005056-77442417-001_001/evi_209120230194-172800688_.leadergirlz.pdf

Converted PDF file(s) (2 pages)

Evidence-1

Evidence-2

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /gregory bernabeo/ Date: 08/11/2009

Signatory's Name: Gregory Bernabeo

Signatory's Position: Attorney of record, Pennsylvania bar member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of

the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77442417

Internet Transmission Date: Tue Aug 11 17:49:59 EDT 2009

TEAS Stamp: USPTO/RFR-209.120.230.194-20090811174959

005056-77442417-4301bd822132ac16abf4a591

878d551d54-N/A-N/A-20090811172800688288

LEADERGIRLZ



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Record 1 out of 1

[TARR Status](#) [ASSIGN Status](#) [TDR](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

Word Mark	DREAM LEADER
Goods and Services	IC 028. US 022 023 038 050. G & S: Board games. FIRST USE: 20071012. FIRST USE IN COMMERCE: 20071026
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	01.15.17 - Balloons, thought or speech; Clouds, thought or speech; Thought or speech clouds 26.03.14 - Ovals, three or more; Three or more ovals 26.03.21 - Ovals that are completely or partially shaded
Trademark Search Facility Classification Code	INAN Inanimate objects such as lighting, clouds, footprints, atomic configurations, snowflakes, rainbows, flames SHAPES-BAR-BANDS Designs with bar, bands or lines SHAPES-OVALS Oval figures or designs including incomplete ovals and one or more ovals
Serial Number	77319976
Filing Date	November 2, 2007
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	May 6, 2008
Registration Number	3471072
Registration Date	July 22, 2008
Owner	(REGISTRANT) Esplin, Jill DBA Leading For Life INDIVIDUAL CALIFORNIA 6007 E. Bryce Ave. Orange CALIFORNIA 92867



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Typed Drawing

Word Mark	LEADER-1
Goods and Services	IC 028. US 022 023 038 050. G & S: toy action figures, toy vehicles and toy robots convertible into other visual forms. FIRST USE: 20020204. FIRST USE IN COMMERCE: 20020204
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76338444
Filing Date	November 16, 2001
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	April 30, 2002
Registration Number	2681846
Registration Date	January 28, 2003
Owner	(REGISTRANT) HASBRO, INC. CORPORATION RHODE ISLAND 1027 Newport Avenue Pawtucket RHODE ISLAND 02862
Attorney of Record	KURT R BENSON
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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